

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 18-1792V

UNPUBLISHED

STEVEN LEWIS,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: November 13, 2020

Special Processing Unit (SPU);
Ruling on Entitlement; Table Injury;
Influenza (Flu) Vaccine; Shoulder
Injury Related to Vaccine
Administration (SIRVA)

*Bruce William Slane, Law Office of Bruce W. Slane, P.C., White Plains, NY, for
Petitioner.*

Mollie Danielle Gorney, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On November 20, 2018, Steven Lewis filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that he suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of an influenza (“flu”) vaccination administered on October 22, 2016. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On October 8, 2020, I issued Findings of Fact in which I determined that Petitioner’s “shoulder pain most likely began within 48 hours of receiving the October 22,

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

2016 flu vaccine.” ECF No. 48 at 4. In reaction, on November 9, 2020, Respondent filed an Amended Rule 4(c) Report indicating that while preserving his right to appeal the October 8, 2020 Fact Finding, he agrees that “[P]etitioner has satisfied all legal prerequisites for compensation under the Act.” Respondent’s Rule 4(c) Report at 2 (citing 42 U.S.C. § 300aa-13).

Specifically, Respondent stated as follows:

In light of the Chief Special Master’s fact finding, and medical record evidence submitted in this case, [the Secretary] will not continue to contest that petitioner suffered SIRVA as defined by the Vaccine Injury Table . . . In addition, petitioner suffered the residual effects of his condition for more than six months. 42 U.S.C. § 300aa-11(c)(1)(D)(i). Therefore, based on the record as it now stands and subject to his right to appeal the Findings of Fact, respondent does not dispute that petitioner has satisfied all legal prerequisites for compensation under the Act. 42 U.S.C. § 300aa-13.

Id. at 5.

In view of Respondent’s position and the evidence of record, I find that Petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master